

Appl. No. 10/030,728
Response. Dated August 25, 2004
Reply to Office Action of March 31, 2004

• • R E M A R K S / A R G U M E N T S • •

In response to Applicants' Request for Reconsideration filed June 30, 2004 the Examiner issued an Advisory Action on July 23, 2004 in which she stated that "The request for reconsideration has been considered but does NOT place the application in condition for allowance because: *there is no English translation of priority documents in file.*"

Submitted herewith is a verified English Translation of Japanese Patent Application No. Hei11-198218 to which the present application claims priority under 35 U.S.C. §365.

The submission of the verified English Translation of Japanese Patent Application No. Hei11-198218 perfects applicants' claim of priority to the filing date of July 12, 1999.

In the Official Action of March 31, 2004 the Examiner rejected claims 1 and 6-10 under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 6,286,145 to Welch et al.

Welch et al. has a filing date of December 22, 1999.

The present application enjoys "perfected" foreign priority date of July 12, 1999 which is earlier than then the filing date of Welch et al.

Accordingly, Welch et al. is not available as a prior art reference against the present application.

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Also in the Official Action of March 31, 2004 the Examiner rejected claims 4 and 5 under 35 U.S.C. §112 second paragraph. Under this rejection the Examiner stated that claims 4 and 5 are indefinite for reciting only the desired physical properties of the continuous fibers and the breathable liquid-impervious sheet, rather than setting forth structural and/or chemical characteristics of the materials.

The Examiner's position is respectfully in error, because claims 4 and 5 only recite the relative breathabilities of the layers of the continuous second thermoplastic synthetic fibers and the breathable liquid-impervious sheet.

The Examiner's reliance upon *Ex parte Slob*, 157 USPQ 172 (TOP Bd App 1967) is not applicable to the present situation. The Examiner will note in *Slob*, the Board of Appeals held that claim recitations such as "a liquefied substance...being compatible with the ingredients in the powdered detergent composition" were indefinite because they encompassed everything that will perform the desired functions.

Applicants' claims 4 and 5 only recite the relative breathabilities of the layers of the continuous second thermoplastic synthetic fibers and the breathable liquid-impervious sheet.

There is no basis to compare and apply the holding in *Slob* to applicants' claims 4 and 5.

Based upon the above, it is submitted that *Welchel et al.* is not available to the Examiner as a prior art reference. Moreover, claims 4 and 5 meet the requirements of 35 U.S.C. §112 second paragraph.

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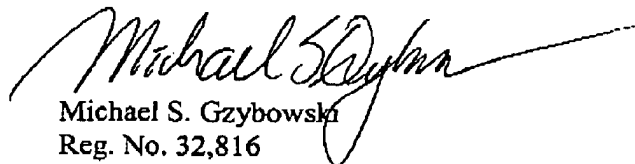
Therefore, reconsideration and withdrawal of the outstanding rejections of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,


Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

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